

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 130 – SB 113

April 20, 2011

SUMMARY OF AMENDMENT (006481): Deletes the original bill. Effective upon becoming law, repeals the Education Professional Negotiation Act which authorizes teachers' associations or other professional unions to negotiate terms and conditions of professional services with local school boards, including salary and benefits. Defines professional employee, professional employee organization, and strike. Prohibits professional employee organizations, its representatives, or any professional employee from engaging or encouraging or coercing others to strike. Authorizes local education agencies (LEAs) to appeal to the chancery court if a strike occurs. Authorizes LEAs to terminate tenured employees who participate in a strike or remove the tenure status of tenured employees. LEAs may also dismiss non-tenured personnel who are strike participants. Requires each local board of education to develop and adopt a professional employee manual that contains and defines the working conditions of professional employees. The professional employee manual shall be binding until a new or renewed professional employee manual is adopted by the local board of education. Requires the manual to be reviewed every three years and revised if deemed appropriate at the discretion of the local board of education after receiving input from professional employees and the public. The manual shall include policies relative to salaries and wages, benefits, leave, student discipline procedures, and working conditions.

Requires the State Board of Education (SBOE) and the Department of Human Resources (DOHR), with the assistance of the Department of Education (DOE), to develop a model professional employee manual by August 15, 2011. Requires each local board of education to develop and adopt a professional employee manual by April 17, 2012. All initial professional employee manuals shall take effect July 1, 2012; however, all currently negotiated agreements in effect shall remain in effect until their scheduled end date. Requires all proposed manuals to be posted for review on the website of the local board of education. If the local board of education does not have website, the proposed manual shall be made available at each LEA school library. Requires local boards of education to provide current and retired professional employees a 45-day period for submission of written comments and recommendations on the proposed manual. Prohibits local boards of education from denying all current and retired professional employees or professional employee organizations the ability to submit comments and recommendations. Requires one public hearing to be held after the comment period has ended. If revisions are made to the proposed manual, the public hearing shall be held at least seven days after the manual is made available on the board's website. The manual shall be a public document.

Requires the local board of education to establish policies concerning the dismissal of LEA employees by school principals and requires that employees to be given written notice of charges against them and an opportunity for defense. Prohibits local boards of education from adversely affecting an individual professional employee or group of professional employees for purposes

unrelated to the duties and powers of the local board of education. Deletes references in current law to the Education Professional Negotiations Act.

FISCAL IMPACT OF ORIGINAL BILL:

Other Fiscal Impact – Local Education Agencies (LEAs) will reduce expenditures currently spent on litigation and negotiator stipends arising from collective bargaining agreements by \$435,000. LEAs may permissively reduce funding for insurance premiums and other negotiated items in the absence of collective bargaining agreements. This permissive decrease in local expenditures will be \$16,111,400.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Increase State Expenditures – Not Significant

Increase Local Expenditures – Not Significant

Other Fiscal Impact – Local Education Agencies will reduce expenditures currently spent on litigation and negotiator stipends arising from collective bargaining agreements by \$435,000. LEAs may permissively reduce funding for insurance premiums and other negotiated items in the absence of collective bargaining agreements. This permissive decrease in local expenditures will be \$16,111,400.

Assumptions applied to amendment:

- The model policy will be developed by DOE, SBOE, and DOHR in the normal course of business without additional travel or meeting costs. Any increase in state expenditures will be not significant.
- LEAs will hold notice and comment periods, publish adopted and proposed professional employee manuals and conduct public meetings without a significant increase in local expenditures.
- According to the Tennessee School Boards Association, 92 of 136 LEAs have collective bargaining agreements.
- Currently, school boards appoint staff members to serve on collective bargaining agreement negotiation councils. One-third of the 92 LEAs (31) pay employee negotiator stipends that total \$10,000 per LEA per year. The local expenditure for stipends is \$310,000 ($\$10,000 \times 31$).
- Approximately five lawsuits are filed each year concerning collective bargaining agreements. This litigation will no longer occur. The cost of each case in attorney's fees and expenses is \$25,000. No damages are awarded in these cases. The cost is funded by local governments. Annual local expenditures for litigation are estimated to be \$125,000 ($25,000 \times 5$).
- The total decrease in local expenditures will be \$435,000 ($\$310,000 + \$125,000$).

- According to information provided by the TSBA, the average annual insurance premium per employee paid by school districts without a collective bargaining agreement is \$5,903. The average annual insurance premium per employee paid by school districts with a collective bargaining agreement is \$6,499. This is an annual average difference of \$596 per employee (\$6,499 - \$5,903). The local BEP maintenance of effort requirement does not apply to insurance premiums.
- According to the DOE 2010 Report Card, the total number of teachers in LEAs with collective bargaining agreements is 54,065.
- LEAs with collective bargaining agreements under current law may reduce their portion of teacher insurance premiums by an average of 50 percent of the premium difference. The permissive reduction in local expenditures will be \$16,111,370 (54,065 teachers x \$596 x \$0.50).
- Tenn. Code Ann. § 49-3-306(b)(4)(B) prevents any reduction in teacher salaries. The BEP maintenance of effort will also prevent any reduction in teacher salaries.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

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